1 2 3 4	WILLIAM R. TAMAYO, REGIONAL ATTORNEY DEBRA A. SMITH, SENIOR TRIAL ATTORNEY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION SAN FRANCISCO DISTRICT OFFICE 350 THE EMBARCADERO, SUITE 500 SAN FRANCISCO, CALIFORNIA 94105-1260	
5 6 7 8 9 0	JOHN STANLEY, SUPERVISORY TRIAL ATTORNEY CARMEN FLORES, SENIOR TRIAL ATTORNEY MAY CHE, SENIOR TRIAL ATTORNEY JAMAL WHITEHAD, SENIOR TRIAL ATTORNEY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 909 FIRST AVENUE, SUITE 400 SEATTLE, WA 98104 TEL: (206) 220-6853	
2 3 4	ATTORNEYS FOR PLAINTIFF	
5	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON	
7 8 9 20	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Plaintiff, v.	CIVIL ACTION NO. CV-11-3093-EFS COMPLAINT JURY TRIAL DEMAND
23 24 25	EVANS FRUIT CO., INC. Defendant.	

COMPLAINT- Page 1 of 12



NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, and Title I if the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation and to provide appropriate relief to Gregorio Aguila, Aurelia Garcia, Wendy Granados, Ambrocio Marin, Cirilo Marin, Angela Mendoza, Francisco Ramos, Elodia Sanchez, Gerardo Silva and Norma Valdez ("Charging Parties") who were adversely affected by such practices, including but not limited to intimidation, and threats of physical harm if they continued to assist and participate in the EEOC investigation of sexual harassment charges and litigation of those charges. The alleged conduct led to the Equal Employment Opportunity Commission's application for a Temporary Restraining Order, granted by

JURISDICTION AND VENUE

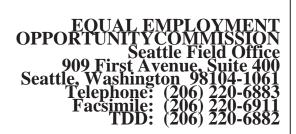
order of June 24, 2010 (CV-10-3033-LRS, ECF No. 30), and its motion for

Preliminary Injunction, granted by order of November 30, 2010 (CV-10-

Jurisdiction of this Court is invoked pursuant to 28 U.S.C.
 §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted

COMPLAINT- Page 2 of 12

3033-LRS, ECF No. 215).



pursuant to section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) (Title VII), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Washington.

PARTIES

- 3. Plaintiff, the United States Equal Employment Opportunity
 Commission ("EEOC" or "Commission") is the agency of the United States
 of America charged with the administration, interpretation and enforcement
 of Title VII, and is expressly authorized to bring this action by Section
 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3), and Section
 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.
- 4. At all relevant times, Defendant Evans Fruit Company, Inc. ("Evans Fruit") has been a corporation continuously doing business in the State of Washington and has continuously had at least 15 employees.
- 5. At all relevant times, Defendant Evans Fruit has continuously been an employer engaged in an industry affecting commerce within the

COMPLAINT- Page 3 of 12



meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

- 6. More than thirty days prior to the institution of this lawsuit, the Charging Parties on which this complaint is based, filed charges with the Commission alleging violations of Title VII by Defendant Evans Fruit. The Commission issued Letters of Determination finding reasonable cause to believe that Evans Fruit discriminated against the Charging Parties in retaliation for engaging in protected activities and therefore violated Title VII. Prior to instituting this lawsuit, the Commission attempted to eliminate the unlawful employment practices alleged herein and to effect voluntary compliance with Title VII through informal methods of conciliation, conference and persuasion within the meaning of Section 706(b) of Title VII, Section 2000e-5(b). All conditions precedent to the institution of this lawsuit have been fulfilled.
- 7. Since at least February 10, 2010, Defendant Evans Fruit has engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a), The practices, below, include subjecting the Charging Parties to threats of physical harm and other intimidation if COMPLAINT- Page 4 of 12

22

23

24

25

they continued to cooperate with and assist the Commission in its investigation of sexual harassment charges and its litigation in EEOC v. Evans Fruit Co., Inc. No. CV-10-3033-LRS.

- 8. The practices complained of in paragraph 7 by the Charging Parties were carried out at the direction of Mr. Juan Marin, a supervisor at Defendant Evans Fruit. Mr. Marin hired and was the direct supervisor of the Charging Parties when they were employed by Defendant Evans Fruit.
- The practices complained of in paragraphs 7 and 8 supported the 9. EEOC's application for a Temporary Restraining Order (CV-10-3033-LRS, ECF No. 7), granted by the Court on June 24, 2010 (CV-10-3033-LRS, ECF No. 30) and its Motion for Preliminary Injunction (CV-10-3033-LRS, ECF No. 65), ordered by the Court on November 30, 2010 (CV-10-3033-LRS, ECF No. 215). The practices include, but are not limited to, the following: On February 10, 2010, at the Sunnyside, Washington public library, EEOC attorneys met with a group of former Evans Fruit employees who had information on claims that Evans Fruit subjected female employees to a sexually hostile, abusive and intimidating work environment. The group included Charging Parties Gregorio Aguila, Aurelia Garcia, Wendy Granados, Ambrocio Marin, Cirilo Marin, Angela **COMPLAINT-** Page 5 of 12

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Seattle Field Office 909 First Avenue, Suite 400 Seattle, Washington 98104-1061 Telephone: (206) 220-6883 Facsimile: (206) 220-6911 TDD: (206) 220-6882 Mendoza, Francisco Ramos, Elodia Sanchez, Gerardo Silva and Norma

library, meeting participant Mr. Aguila recognized Mr. Domingo Cuenca and

Mr. Alvaro Rojas, who he believed were still employed by Evans Fruit. Mr.

Aguila believed that one of them was taking pictures of meeting participants

During the meeting in the main room of the Sunnyside public

Soon after the EEOC library meeting, Evans Fruit Supervisor

Valdez.

10.

with his phone.

11.

5

16

17 18

20 21

23

22

24 25

Mr. Alberto Sanchez called Mr. Gregorio Aguila and told Mr. Aguila that Mr. Juan Marin would give him money and work in exchange for information about the meeting at the library with the EEOC or any future meeting and about the identity of any individuals attending the meetings and/or cooperating with the EEOC. Mr. Sanchez told Mr. Aguila that Mr. Marin and Mr. Sanchez knew Mr. Aguila was at the meeting and asked if he was involved in trying to cause problems for Juan Marin. Mr. Aguila denied that he had been at the library, but Mr. Sanchez told him that he had pictures of him and the other meeting participants. Mr. Sanchez said that Mr. Juan Marin and Mr. Sanchez had plans to take care of those who attended the meeting and that they-- he and Farm Manager Marin—were going to get

COMPLAINT- Page 6 of 12

24 25

even with everyone who participated and cooperated with the Commission. Mr. Aguila understood this to mean that physical harm would result to the individuals who had cooperated or who continued to cooperate with and assist the EEOC.

- 12. The retaliatory threats became severe, chilling, and life threatening such that Mr. Aguila, Ms. Elodia Sanchez, and their baby son relocated to another state in fear for their safety. After the EEOC library meeting, Mr. Juan Marin subjected Mr. Aguila and Ms. Elodia Sanchez to death threats for cooperating with and assisting the EEOC. They live in a constant state of fear that they and their baby son will be killed.
- 13. Mr. Ambrocio Marin learned that Mr. Juan Marin, his cousin, had specifically solicited and offered various individuals, including Mr. Gregorio Aguila, money to murder him for cooperating with and assisting the EEOC.
- 14. Mr. Gerardo Silva learned of threats by Mr. Juan Marin against those in attendance at the EEOC library meeting and feared that harm would come to his partner, Ms. Norma Valdez, who was pregnant at the time of attending the EEOC meeting. Upon learning of the threats to meeting participants, Ms. Valdez refused to cooperate with the EEOC in **COMPLAINT-** Page 7 of 12

providing testimony for the EEOC's application for a temporary restraining order and preliminary injunction and refused to file a charge of discrimination until after the Court ordered a preliminary injunction. Mr. Silva and Ms. Valdez live in fear that harm will come to them for cooperating with and assisting the EEOC.

- 15. Ms. Angela Mendoza and her husband Mr. Francisco Ramos learned of threats by Mr. Juan Marin against the meeting participants and fear that Mr. Juan Marin will harm them for cooperating with and assisting the EEOC.
- 16. Ms. Wendy Granados saw two suspicious individuals observing the meeting participants. After the meeting, Ms. Granados learned that Juan Marin had made threats against individuals who attended the meeting or cooperated with the EEOC attorneys. Ms. Granados fears for her safety and the safety of her family for cooperating with and assisting the EEOC.
- 17. Soon after the library meeting, Ms. Aurelia Garcia heard that people spied on the EEOC library meeting participants to see who was talking to the EEOC attorneys. Ms. Garcia believes that she and her children are in danger because Mr. Juan Marin might find them and harm them for cooperating with and assisting the EEOC.

COMPLAINT- Page 8 of 12



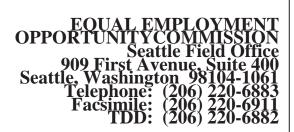
- 18. Mr. Cirilo Marin was singled out by name as a target for revenge by Mr. Juan Marin, his brother, once he learned of his cooperation with and assistance to the EEOC
- 19. Upon learning of the threats against meeting participants, the above Charging Parties feared being identified as participants and refused to be named in the EEOC action until after the Court issued a preliminary injunction order.
- 20. The practices complained of in paragraphs 7-19, above, have had a chilling effect on, and have adversely affected, the Charging Parties and others in cooperating with and assisting the EEOC in its sexual harassment investigation and litigation against Evans Fruit.
- 21. The unlawful employment practices complained of in paragraphs 7-19 above were intentional.
- 22. The unlawful employment practices complained of in paragraphs 7-19 above were done with malice or with reckless indifference to the federally protected rights of the Charging Parties.

///

| | ///

25 | ///

COMPLAINT- Page 9 of 12

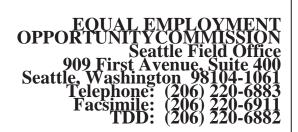


PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate on the basis of retaliation.
- B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant to make whole Charging Parties by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-19 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.
- D. Order Defendant to make whole Charging Parties by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7-19 above, including

COMPLAINT- Page 10 of 12



without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.

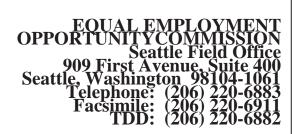
- E. Order Defendant to pay Charging Parties punitive damages for its malicious and reckless conduct described in paragraphs 7-19 above, in amounts to be determined at trial.
- F. Grant such further relief as the Court deems necessary and proper in the public interest.
 - G. Award the Commission its costs of this action.

///
///
///
///
///
///
///
///

///

///

COMPLAINT- Page 11 of 12



JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 15th day of September, 2011.

WILLIAM R. TAMAYO P. DAVID LOPEZ Regional Attorney General Counsel

JOHN STANLEY JAMES L. LEE
Supervisory Trial Attorney Deputy General Counsel

CARMEN FLORES GWENDOLYN Y. REAMS
Senior Trial Attorney Associate General Counsel

MAY CHE Senior Trial Attorney

DEBRA A. SMITH Senior Trial Attorney

JAMAL WHITEHEAD Senior Trial Attorney

BY: /s/ William R. Tamayo
EQUAL EMPLOYMENT OPPORTUNITY

COMMISSION

Seattle District Office Office of the General Counsel

909 First Avenue, Suite 400 131 "M" Street NE

Seattle, Washington 98104 Washington, D.C. 20507-0100 Telephone (206) 220-6920

Attornava for Di

Attorneys for Plaintiff

COMPLAINT- Page 12 of 12



4 5

1

2

3

6 7

8

10

11 12

> 13 14

15

16

17

18 19

20

22

2324

25